IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1148 OF 2006
IN
CRIMINAL APPEAL NO.1064 OF 2006

Suresh @ Balu Tukaram Gadade ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.Milind Deshmukh for the Applicant
Ms S.V.Gajare,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : NOVEMBER 28,2006.

P.C.:

1. The conviction of the Applicant is for offence punishable under section 306 of the Indian Penal code. The substantive sentence is R.I. for five years. The Applicant was on bail throughout the trial. The material witnesses viz. P.W.No.1 Kusum who is the mother of the deceased and P.W.No.2 Dhananjay have turned hostile. Even the P.W.No.3 Ravindra Dhavan was also declared hostile. The conviction under section 306 is based on two dying declarations; one is allegedly recorded by the Executive Magistrate and the other is recorded by a Police Constable.

2. Even according to the case of the prosecution which is reflected from dying declaration, the deceased had left her husband after cohabiting with him for 14 years. The case of the prosecution is that the deceased was having illicit relationship with the Applicant. The deceased committed suicide on the ground that the Applicant expressed suspicion

about the character of the deceased.

2. As stated earlier, the Applicant was on bail throughout the trial and there is no allegation of misuse of the liberty granted to him. The Appeal is already admitted for final hearing.

3. Hence, the Application is disposed of by passing the following order :

i) Applicant shall be enlarged on the same bail on which he was enlarged during the pendency of the trial subject to filing fresh bail bonds.

ii) Bail is granted subject to the condition that the Applicant will report to Baramati Police Station, District Pune once in every calendar month till the disposal of the Appeal.

JUDGE